

1 which the ALJ found to be unbelievable. Defendant argues that the
2 Plaintiff's wife's lay witness report concerned a period after the
3 relevant disability period in this case. Plaintiff's employer's lay
4 witness report did not give specific times and dates, and therefore may
5 also be irrelevant to the Administrative Law Judge's ("ALJ") ultimate
6 conclusion on remand. The case was remanded because of the heightened
7 harmless error standard when lay witness testimony is not addressed by the
8 ALJ, but under the circumstances, we cannot find that the government's
9 position was not substantially justified. While Plaintiff prevailed on
10 the issue of lay witness testimony, the remainder of the ALJ's conclusions
11 were affirmed.

12 IT IS, THEREFORE, HEREBY ORDERED that Plaintiff's Motion for Fees
13 (#32) is DENIED.

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15 DATED: April 16, 2012.

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17 UNITED STATES DISTRICT JUDGE
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